



# Voter Suppression 101

## How Conservatives Are Conspiring to Disenfranchise Millions of Americans

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### Introduction

The right to vote is under attack all across our country. Conservative legislators are introducing and passing legislation that creates new barriers for those registering to vote, shortens the early voting period, imposes new requirements for already-registered voters, and rigs the Electoral College in select states. Conservatives fabricate reasons to enact these laws—voter fraud is exceedingly rare—in their efforts to disenfranchise as many potential voters among certain groups, such as college students, low-income voters, and minorities, as possible.<sup>1</sup> Rather than modernizing our democracy to ensure that all citizens have access to the ballot box, these laws hinder voting rights in a manner not seen since the era of Jim Crow laws enacted in the South to disenfranchise blacks after Reconstruction in the late 1800s.

Talk about turning back the clock! At its best, America has utilized the federal legislative process to augment voting rights. Constitutional amendments such as the 12th, 14th, 15th, 17th, 19th, 23rd, and 26th have steadily improved the system by which our elections take place while expanding the pool of Americans eligible to participate. Yet in 2011, more than 30 state legislatures considered legislation to make it harder for citizens to vote, with over a dozen of those states succeeding in passing these bills. Anti-voting legislation appears to be continuing unabated so far in 2012.

Unfortunately, the rapid spread of these proposals in states as different as Florida and Wisconsin is not occurring by accident. Instead, many of these laws are being drafted and spread through corporate-backed entities such as the American Legislative Exchange Council, or ALEC, as uncovered in a previous Center for American Progress investigative report.<sup>2</sup> Detailed in that report, ALEC charges corporations such as Koch Industries Inc., Wal-Mart Stores Inc., and The Coca-Cola Co. a fee and gives them access to members of state legislatures. Under ALEC's auspices, legislators, corporate representatives, and ALEC officials work together to draft model legislation. As ALEC spokes-

person Michael Bowman told [NPR](#), this system is especially effective because “you have legislators who will ask questions much more freely at our meetings because they are not under the eyes of the press, the eyes of the voters.”

The investigative report included for the first time a leaked copy of ALEC’s model Voter ID legislation, which was approved by the ALEC board of directors in late 2009. This model legislation prohibited certain forms of identification, such as student IDs, and has been cited as the legislative model from groups ranging from Tea Party organizations to legislators proposing the actual legislation such as Wisconsin’s Voter ID proposal from Republican state Rep. Stone and Republican state Sen. Joe Leibham.

Similar legislation had been proposed during the early 2000s in states such as Missouri, but the legislation frequently failed to be passed. Seeking new avenues, the George W. Bush administration prioritized the conviction of voter fraud to the point where two U.S. attorneys were allegedly fired in 2004 for failing to pursue electoral fraud cases at the level required by then-Attorney General John Ashcroft. In fact, three years after first prioritizing election fraud in 2002, Ashcroft’s efforts had produced only 95 defendants charged with election-fraud, compared to 80,424 criminal cases concluded in a given year.

These efforts were dismal in terms of effectiveness and convictions, but news reports from 2007 pointed out that simply “pursuing an investigation can be just as effective as a conviction in providing that ammunition and creating an impression with the public that some sort of electoral reform is necessary.”<sup>3</sup>

With this groundwork laid, ALEC today is spearheading these efforts anew. These new antivoting laws are being challenged legally by a variety of nonpartisan organizations ranging from Rock the Vote to the League of Women Voters to the Public Interest Research Group. Additionally, the Department of Justice is reviewing some of the new state laws for possible violations of the Voting Rights Act, which freezes changes in election practices or procedures in nine southern states due to their history of voter suppression in the past.

This issue brief focuses on both the current status of various antivoter measures throughout our country as well as the legal challenges they face. Readers will learn how conservatives want to return to past practices of voter suppression to preserve their political power, and looks at several instances where progressives are fighting back successfully.

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## Registration restrictions

Let’s begin with voter registration restrictions. In a handful of states, legislators aren’t just making it more difficult to vote; they’re making it more difficult for citizens even to register in the first place. Lawmakers in half a dozen states made a variety of changes

Registering the poor “to vote is like handing out burglary tools to criminals.”

– Conservative columnist Matthew Vadum<sup>51</sup>

to the registration process in 2011.<sup>4</sup> These include limiting when citizens can register, restricting who is permitted to help them, and implementing tougher bureaucratic requirements to register.

Nowhere has the war on registration been more controversial than the state of Maine. Since 1973, Mainers have been permitted to register to vote at the ballot box. For nearly 40 years, the system worked smoothly—separate lines for registering and voting are used to prevent congestion—and just two instances of voter fraud were found in the entire span.<sup>5</sup>

Nevertheless, when an unusually conservative group of lawmakers took over both state-house chambers and the governorship in 2010, one of their primary orders of business was to repeal the state’s law permitting citizens to register on Election Day. Fortunately, in the ensuing weeks citizens of the state rallied to collect tens of thousands of signatures and force a vote on the matter. In November 2011, 61 percent of Mainers rebuked the legislature and voted to restore Election Day registration in their state.

Alas, voting rights proponents in other states have not been as successful. In Florida and Texas, for example, lawmakers succeeded in placing onerous new restrictions on nonprofit organizations that help register new voters. Voter registration drives by groups such as the League of Women Voters have been a staple of our democracy for years, helping thousands of citizens to register, regardless of their political affiliation.

In the Sunshine State, however, those may now be a thing of the past. Last July, the League of Women Voters announced it would no longer operate in Florida because of new antivoter legislation—including complicated new filing requirements and a mandate to submit completed registration forms within 48 hours of completion or face a hefty fine—made it nearly impossible for them to continue their work.<sup>6</sup>

The Lone Star State also placed unnecessary new requirements on groups and individuals interested in helping register others. Texas lawmakers in May passed legislation requiring that people who help register voters, known as volunteer deputy registrars, must also be eligible Texas voters themselves. The new law has a number of unintended consequences. For instance, legal permanent residents who are in the process of obtaining their citizenship would be barred from learning the political process by helping register others. Many such immigrants are currently employed as deputy registrars; this new law would likely result in their firing.

What’s more, disabled Texans who are considered full guardians of the state and ineligible to vote would be shut out as well. One disabled gentleman had carried voter registration forms in his wheelchair for years, eager to register others for a democratic process he himself could not participate in. Under the new law, it would be illegal for him to continue registering new voters.<sup>7</sup> As of February 2012, Texas’s new law remains not in effect while the Justice Department determines whether it complies with the Voting Rights Act.

“I don’t want  
everybody to vote.”

– Heritage Foundation  
co-founder Paul Weyrich<sup>52</sup>

Kansas, Alabama, and Tennessee took a slightly different route, augmenting the required documentation necessary to register to vote. Each passed laws requiring residents to prove their citizenship before registering, either by presenting a birth certificate or passport.<sup>8</sup> Less than a third of Americans currently own a passport,<sup>9</sup> and citizens who don't have access to their birth certificate would be forced to pay for one in order to vote—an almost certain violation of the 24th Amendment's ban on poll taxes. The problem is not small; at least 7 percent of Americans don't have easy access to a birth certificate or similar citizenship document.<sup>10</sup>

Arizona and Georgia also passed similar legislation prior to 2011. The Justice Department is currently reviewing Georgia and Alabama's changes for compliance with the Voting Rights Act, and Arizona's law is being challenged in the Ninth Circuit Court of Appeals.

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## Residency restrictions

Another avenue where conservatives are proposing to limit voting rights is tightening the residency requirements. The intended effect of these measures is to make it difficult, if not impossible, for out-of-state college students to vote where they attend school.

In Maine, young voters are being targeted even more brazenly. In September 2011 Maine's secretary of state sent a threatening letter<sup>11</sup> to hundreds of college students who were legally registered to vote in the state, implying that many of them were in violation of election law and suggesting they correct this by unregistering in Maine. The list of college students targeted for this letter came directly from the Maine Republican Party Chairman, underscoring just how partisan the voter suppression effort in Maine has become.<sup>12</sup> New Hampshire is now considering stricter residency requirements for Granite State voters as well.<sup>13</sup>

All of this is especially surprising given the Supreme Court's decision in *Symm v. United States*, where it upheld a lower court decision establishing that states cannot place obstacles unique to college students between those students and their right to vote.<sup>14</sup>

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## Limiting early voting

Following widespread voting problems in the 2000 election that had nothing to do with voter fraud—from extraordinarily long lines to hanging chads—many states moved to ease the burden on clerks and citizens by allowing people to vote prior to Election Day. Ohio and Florida were the epicenter of these problems, and both states moved to prevent similar problems in the future by allowing early voting.

Among conservatives, then-Florida Gov. Jeb Bush was a major proponent of such reforms, calling them a “wonderful” way to “provide access to the polls.”<sup>15</sup> As a result, over half of Sunshine State voters cast their ballot before Election Day in 2008.<sup>16</sup>

## Early voting

Florida sought to eliminate the long-established practice of early voting on the last Sunday before Election Day and Ohio has eliminated early voting on Sundays entirely. Substantial evidence points to Sundays as a day when African-Americans vote in proportionately far greater numbers than whites.<sup>18</sup>

Yet three years later, lawmakers in the state moved to limit the availability of early voting. In Florida voters had previously been permitted two weeks of early voting prior to the election; lawmakers rolled that back to eight days. Ohio lawmakers went even further, reducing the state's early voting period from 35 days to just 11. Ari Berman also notes in *Rolling Stone* that "both states banned voting on the Sunday before the election—a day when black churches historically mobilize their constituents."<sup>17</sup>

Other states have successfully rolled back their early voting periods as well. Georgia reduced early voting from 45 to 21 days, Wisconsin shortened their period by 16 days, West Virginia by five days, and Tennessee by two.

In one bright spot, voting rights proponents in the Buckeye State are fighting back against the new changes. Hundreds of thousands of Ohioans signed a petition to hold a referendum on the voting changes, suspending the law until voters decide its fate in November 2012.

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## Voter ID laws

The most common type of voter-related legislation in 2011 was the mandate that individuals must show certain kinds of government-issued photo ID at the polls before being allowed to vote. To date, Alabama, Georgia, Indiana, Kansas, Missouri, Pennsylvania, Tennessee, Texas, and Wisconsin have all passed such laws, and similar measures have been proposed by 24 more.<sup>19</sup>

But with more than 1 in 10 voters (over 21 million Americans) currently lacking these photo IDs, it's clear that such laws could have a disastrous effect.<sup>20</sup> Voter ID laws have the potential to exclude millions of Americans, especially seniors, students, minorities, and people in rural areas. One example is Osceola, Wisconsin: A small town in the northwestern part of the state with a population of under 3,000 people. The town is 30 minutes away from the nearest DMV offices and both are rarely open.<sup>21</sup>

Defenders of these laws claim they are necessary to prevent voter fraud. In reality they are a solution in search of a problem. There's virtually no such fraud in American elections—and it's not even remotely close to being the epidemic that some elected officials have made it out to be. In the 2004 election, for example, about 3 million votes were cast in Wisconsin—only seven were declared invalid—all of which were cast by felons who had finished their sentences and didn't realize they were still barred from voting.<sup>22</sup> As a result, Wisconsin's overall fraud rate came in at a whopping 0.00023 percent.

The only kind of voter fraud that is supposed to be prevented by these laws is one voter impersonating another. Not only would impersonating other voters one-by-one be an absurd strategy for stealing an entire election, but the already-existing penalties—five years in prison and a \$10,000 fine<sup>23</sup>—are doing an effective job at preventing such fraud.

The chief sponsor of Georgia's voter ID legislation, Rep. Sue Burmeister (R-Augusta), told the Justice Department the bill would keep more African Americans from voting, which was fine with her since "if there are fewer black voters because of this bill, it will only be because there is less opportunity for fraud."<sup>53</sup>

Yet, while these laws would prevent few if any actual cases of voter fraud, they could disenfranchise millions of ID-less voters. And they are clearly illegal under longstanding voting rights law. The Voting Rights Act not only forbids laws that are passed specifically to target minority voters but also strikes down state laws that have a greater impact on minority voters than on others. Because Voter ID laws disproportionately disenfranchise minorities, they clearly fit within the Voting Rights Act's prohibition.

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## Gaming the Electoral College

Pennsylvania Gov. Tom Corbett recently proposed changing the way his state allocates electoral votes in a presidential election. Should his proposal become law, it could alter the outcome in 2012 and significantly increase the possibility that a candidate who loses the popular vote in his state still receives more electoral votes overall.

Although the Constitution permits each state legislature to decide how the winner of its electoral votes will be selected during a presidential election, all but two of the states follow the same process—whichever wins the state as a whole receives all of that state's electoral votes. The two remaining states, Maine and Nebraska, allocate one electoral vote to the winner of each congressional district, plus two additional votes to the overall winner of the state. Because these are both very small states, however, their unusual process is unlikely to alter the outcome of presidential elections.

The same cannot be said of Pennsylvania. As the nation's sixth most populous state, Pennsylvania commands 20 electoral votes in the 2012 election. Gov. Corbett's proposal would allocate these votes according to the Maine/Nebraska system, potentially swinging the election in the process.

President Obama won Pennsylvania by more than 10 percentage points in 2008, but if Pennsylvania had allocated votes in the same way as Maine and Nebraska then he would have only earned only more electoral vote from the state than his opponent Sen. John McCain (R-AZ).<sup>28</sup> In 2012 President Obama could win the state as a whole and still lose twelve of the state's twenty electoral votes due to Pennsylvania's heavily gerrymandered districts.<sup>29</sup> This is more than enough to change the result of next year's election. Consider that after the Supreme Court awarded Florida's electoral votes to George W. Bush after the 2000 presidential election. Bush received only five more electoral votes in 2000 than his opponent Al Gore, who won the majority of the national popular vote.

Gov. Corbett's plan risks absurd results where the overall winner of a state's popular vote becomes the loser of its electoral vote. Worse, it undermines the legitimacy of any president who takes office solely due to Pennsylvania conservatives gaming the Electoral College. Although the Pennsylvania plan is probably constitutional, it is no less an attack on our democratic system of government. The winner of the 2012 presi-

## Fast facts on voter suppression

**11 PERCENT** of American citizens do not possess a government-issued photo ID (over 21 million citizens)<sup>24</sup>

**3** of the photo ID bills to have passed—in South Carolina, Texas, and Tennessee— expressly do not allow students to use photo IDs issued by state educational institutions to vote, and Wisconsin's bill effectively excludes most student IDs as well<sup>25</sup>

**AROUND 3 MILLION** Americans tried to vote in the 2008 presidential election but could not, due to voter registration problems<sup>26</sup>

**AS MANY AS 25 PERCENT** of African-Americans do not possess a current and valid form of government issued photo ID, compared to 11 percent of all races<sup>27</sup>

dential election should be the person chosen by the American people, not by arbitrary differences between various states' election laws.

For the moment, Gov. Corbett's proposal appears to be dead due to infighting between the proposal's supporters and some of Pennsylvania's members of Congress in Washington who fear it could cause more campaign resources to be directed toward their districts.<sup>30</sup> There is nothing preventing its supporters from reviving it—potentially even on the eve of the election—should the 2012 election appear close enough to be swung by manipulating the Electoral College.

Moreover, at least one Wisconsin lawmaker has jumped upon this proposal, creating the risk that it could spread to other states. If similar swing states, such as Florida or Michigan, took up this plan, it could fundamentally transform the next election into a contest to see who can best game the system.

## Five worst states for voting rights in 2011

**FLORIDA** undermined voting rights in three principal ways last year. First, lawmakers reduced the early voting period by nearly half. Second, they took away the right to vote from ex-felons who had completed their sentence. Third, they imposed new onerous requirements on voter registration groups like the League of Women Voters.



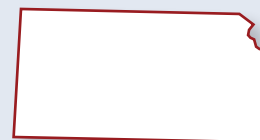
**WISCONSIN** has historically been a leader on progressive voting rights, but they took a big step backwards in two ways last year. First, they reduced their early voting period by 16 days. Second, they instituted a new voter ID requirement that could disenfranchise hundreds of thousands across the state.



**TEXAS** also passed restrictive regulations on voter registration groups that could cut thousands out of the political process. It also enacted a strict voter ID law that could disenfranchise hundreds of thousands of Texans, particularly Latinos.



**KANSAS** passed voter ID legislation last year, as well as a proof of citizenship bill that will make anyone trying to register to vote prove he or she is a citizen first. Thousands of Kansans lack ready access to such documents.



**TENNESSEE'S** attack on voting rights in 2011 was two-fold. The state shortened its early-voting period and passed a new voter ID law that will deny the ballot to hundreds of thousands of Tennesseans.



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## Voter suppression in personal terms

In a representative democracy, it is important to point to individuals who would be prevented from exercising their right to vote due to these efforts at targeted voter suppression. Here are some real-life examples of the consequences of these voter suppression laws.

### *Ricky Tyrone Lewis*

Ricky is a 58 year-old Marine Corps veteran. Despite the fact that he was able to offer Wisconsin voting officials proof of his honorable discharge from the Marines, Milwaukee County has been unable to find the record of his birth that he needs in order to obtain a voter ID card.<sup>31</sup>

### *Ruthelle Frank*

Ruthelle is an 84 year-old former elected official who voted in every election for the last 63 years, yet she will be unable to obtain a voter ID unless she pays a fee to obtain a birth certificate from the Wisconsin government<sup>32</sup>—despite the fact that the Constitution explicitly forbids any voter from being charged a fee in order to vote.<sup>33</sup> Worse, because the attending physician at her birth misspelled her name on her original birth certificate, she may need to pay hundreds of dollars in court fees to petition the state judiciary to correct her certificate before she can obtain a voter ID.

### *Paul Carroll*

Paul is an 86-year-old World War II veteran who has lived in the same Ohio town for four decades. Yet when he attempted to vote in the recent Ohio primary, he was told his photo ID from the Department of Veterans Affairs was not good enough because it did not include his address.<sup>34</sup>

### *Dorothy Cooper*

Dorothy is a 96-year-old African-American woman who says she has voted in every election but one since she became eligible to vote. Yet when she attempted to obtain a voter ID she was turned away because she did not have a copy of her marriage license.<sup>35</sup> In a subsequent interview Dorothy said that she didn't even have problems voting in Tennessee "during Jim Crow days — only now under Voter ID."<sup>36</sup>

### *Thelma Mitchell*

Thelma is a 93-year-old woman who cleaned the Tennessee Capitol for 30 years. She never received a birth certificate, however, because she was delivered by a midwife in Alabama in 1918 and there was no record of her birth. When she attempted to obtain a voter ID, she was turned away for lack of a birth certificate by a clerk who suggested she could be an illegal immigrant.<sup>37</sup>



### *Virginia Lasater*

Virginia is a 91-year-old woman who has been active in political campaigns for 70 years. Because of her advanced age, however, she is no longer able to stand for extended periods of time. When she attempted to obtain a voter ID, she was confronted with lines that stretched for several hours and no place to sit while she waited—forcing her to abandon her effort to obtain an ID due to her physical constraints.<sup>38</sup>

### *Darwin Spinks*

Darwin is an 86-year-old World War II veteran. He was told to pay a fee before he could obtain a voter ID in Tennessee, despite the fact that charging someone to vote is unconstitutional.<sup>39</sup>

### *Rita Platt*

Rita is a Wisconsin resident who was turned away from her attempt to obtain a voter ID because she required either a birth certificate or a passport to obtain one—both of which can only be obtained if the voter pays a fee.<sup>40</sup> Worse, in Wisconsin, voters must fill out a misleading form<sup>41</sup> that suggests that they cannot obtain the birth certificate they need to obtain a photo ID unless they already have a photo ID.

### *Jessica Cohen*

Jessica is a Texas resident who lost her license and other identification papers in a burglary. She now must also pay an unconstitutional fee in order to obtain the birth certificate she needs to obtain a new voter ID.<sup>42</sup> Because Cohen lives in Texas, she will likely be able to vote in 2012 because the Department of Justice blocked Texas's law under the Voting Rights Act<sup>43</sup>—although there is a high risk<sup>44</sup> that the Supreme Court's conservatives will declare the Voting Rights Act unconstitutional.

These nine voters are representative of the millions of voters who could be deprived of their right to vote after exercising that right for, in some cases, decades. Their problems will become more commonplace as additional states continue to pass suppressive laws.

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## Conclusion

When speaking about this subject at the Campus Progress National Conference in 2011, President Bill Clinton asked the young audience why these laws making it harder to vote were all being proposed in such a high rate and passed across the country. The answer, he said, was that “They are trying to make the 2012 electorate look more like the 2010 electorate than the 2008 electorate.”<sup>45</sup>

Conservatives are scared because each cycle more young and minority voters are entering voting age and their collective impact is growing accordingly. In 2008 about 48 million Millennial generation voters—those born between 1978 and 2000—were old enough to

“Election Day registration leads to “the kids coming out of the schools and basically doing what I did when I was a kid, which is voting as a liberal. That’s what kids do — they don’t have life experience, and they just vote their feelings.”

– New Hampshire House Speaker William O’Brien<sup>54</sup>

vote. By 2012, that number will be 64 million, or 29 percent of all eligible voters. According to analysis by the Center for American Progress, by 2020, when all Millennial voters are of voting age, about 90 million of them will be eligible to vote and will comprise around 40 percent of all eligible American voters.<sup>46</sup> This parallels changes in minority voters—from 1988 to 2008 the percent of minority voters increased to 26 percent from 15 percent.<sup>47</sup>

These young and minority voters are strongly progressive. They strongly support progressive staples such as investing in renewable energy<sup>48</sup> and maintaining Social Security.<sup>49</sup> This has translated into elections as well. In 2008 both young voters and Hispanic voters delivered two-thirds of their votes to President Obama.<sup>50</sup>

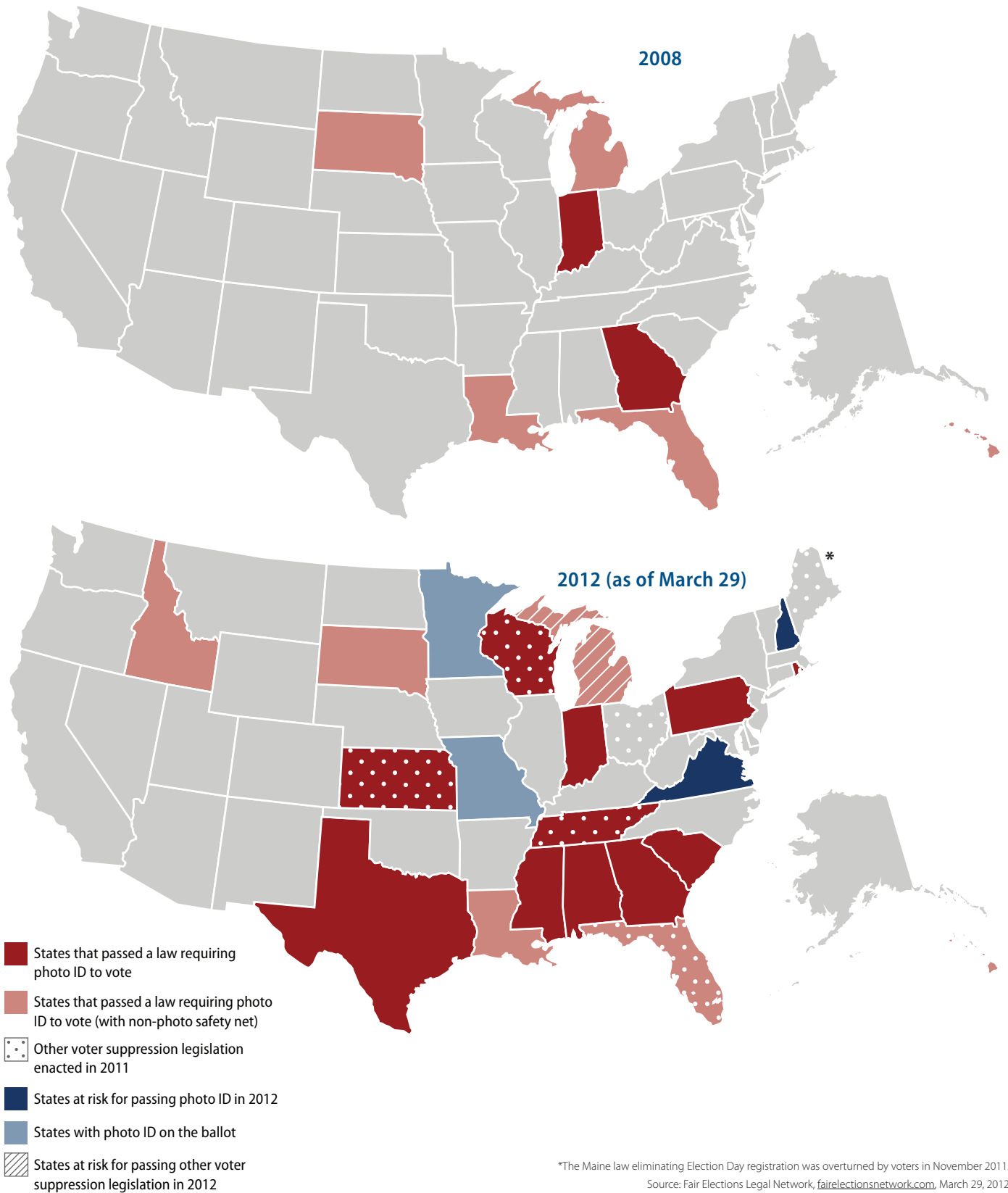
Taken together, the growing influence of staunchly progressive voters has conservatives scared to the point of extreme measures. Backed by large corporate donors, they are looking for any proposal or law that will help negate this change in voting demographics. While this is their motivation, the right to vote is an American right that should be protected by those of all political persuasions.

Right now, the protection of anti-voter suppression measures put in place during the 1960s is preventing the enactment of the law in key states. And in other states the laws will become ballot measures where their outcome can be decided by the voters. In many states these laws have already been passed and must be aggressively challenged through legal and electoral measures to put our system of democratic elections back on the right track.

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## Spreading suppression

The proliferation of voter suppression laws, 2008 and 2012



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